9.0 PHASE I TECHNICAL REVIEW

The Phase 1 Technical Review is the first full, comprehensive review of the permit application. By this point in the review, the permit writer should have:

(1)   met with the facility proponent or operator at least once,

(2)   done a preliminary application review to make sure all of the major components were included in the application and gain some familiarity with the details of the facility,

(3)   conducted a preapplication review site visit and prepared a site visit report,

(4)   established the administrative file,

(5)   initiated CEQA by having determined who will be the lead agency, and

(6)   informed the Public Participation Unit of the receipt of the formal application and any potential community issues identified during the site tour, if this has not yet been done as directed in previous steps.

Consistency With Local Hazardous Waste Management Plan

Pursuant to Cal. H&S Code section 25135.4, no project can be approved unless the local governing body of the city or county where the project is located makes a determination that the proposed project is consistent with the local hazardous waste management plan. The permit writer should contact the local entity in which the project will be located to obtain a copy of the consistency finding made by the local governing body. This finding should be obtained early in the permit process to avoid delays in the final permit decision made by DTSC (also see discussion under CHAPTER 2: PREAPPLICATION ACTIVITIES; CEQA Considerations).

Cal. H&S Code section 25199 et seq. sets forth the requirements an applicant must follow when applying for a hazardous waste facility permit.

[Note: The H&SC section 25199 et seq. identifies the Governor's Office of Planning and Research, Office of Permit Assistance (OPA) as being responsible for providing assistance to permit applicants. The OPA is now located within the Trade and Commerce Agency.]

Consistency With U.S. EPA Regulations

Whenever U.S. EPA adds permitting standards for processes for which DTSC does not have RCRA authorization, U.S. EPA will process (i.e., issue) and enforce RCRA permits or portion of permits in California for the new or revised processes until DTSC has received final authorization for the new or revised standards. DTSC and U.S. EPA have agreed (Memorandum of Agreement dated September 22, 1997, Appendix 9.0-1) to a joint permitting process for RCRA permits for those provisions of RCRA for which DTSC does not have authorization. As DTSC receives authorization for additional provisions of RCRA, U.S. EPA will suspend issuance of Federal permits in California related to those provisions. If the permit writer determines the facility permit will include units, processes, and/or wastestreams for which DTSC lacks authorization, the permit writer should so inform his or her supervisor and the attorney assigned to the permit in OLC.

Public Participation Strategy

Permit writers should meet with the Public Participation Unit as early as possible in order to determine the community outreach strategy for the permit process. Questions to be considered are:

C   Based upon a community profile conducted by the applicant or DTSC, is this project likely to generate a high level of community interest? If so, DTSC should consider developing a

community assessment, or if necessary, a Public Participation Plan;

C   Is there need for a "kickoff" fact sheet to be mailed to the community?

C   Is there need for a community meeting, or other interactions with members of the community?

Comprehensive Review of Administrative Files

If the applicant facility is an existing facility, the permit writer should conduct a comprehensive review of the administrative file before beginning the technical review of the application. As with the preapplication review site visit, the permit writer should carefully note facility details which may need special review. Notes and correspondence from previous permit writers may identify particular problems that need careful attention by DTSC and perhaps special conditions written into the permit. While doing the comprehensive file review, the permit writer should also begin creating the project's mailing list (See Chapter 13.0, Draft Permit Decision).

Identification of SWMUs

Concurrent with the Phase I and Phase II Technical Reviews, the permit writer must conduct a RCRA Facility Assessment (RFA) and prepare a draft RFA report. (See Chapter 11.0, Corrective Action.) The RFA begins with a detailed review of DTSC's other agency's files (CIWMB, RWQCB, local environmental health departments, etc.). The permit writer should keep careful notes about any possible Solid Waste Management Units (SWMUs) for reporting in the RFA during comprehensive file review and the technical review. Questions about any SWMUs discovered should be included in the NOD. If SWMUs exist, it is almost certain that corrective action (See Chapter 11.0, Corrective Action.) conditions will be required in the permit.

Review Checklist

Once the permit application has been received and all preliminary activities completed, the permit writer should next assemble the permit application review checklist (Appendix 9.2). The application review checklist is a very detailed, comprehensive list of regulatory requirements that the permit writer uses to determine whether the facility and permit application meet all requirements for receiving a hazardous waste facility permit.

[Note: Making this item-by-item comparison between the construction and operational details of the facility and the administrative and technical details of the application, versus the statutory and regulatory prerequisites for obtaining a permit is the very essence of permitting responsibility and the essence of public trust delegated to each permit writer. Thus, it should be taken quite seriously. The checklist is simply a list of items to be checked during the review, with similar items grouped together in a logical arrangement. It is neither a substitute for the regulations and technical knowledge they represent, nor the critical thinking that must accompany each item by item analysis. For each item on the checklist, the permit writer must either personally know and understand the regulatory requirement (including the scientific or engineering principles involved) or seek assistance from DTSC staff, supervisors, or outside consultants.]

The permit application checklist is located in the Permit Module of the DTSC Information System, which has been installed in each regional office. The checklist portion of the Permit Module contains information concerning most aspects of the technical review process. The checklist files are grouped into subject sections which are consistent with the Phase I Technical Review sections of these instructions (Chapters 9.1 through 9.11).

Each checklist item addresses a specific required regulatory detail that the permit writer must determine, either by field inspection or application review, whether the regulatory requirement (including the

scientific or engineering principle involved) has been: (1) adequately addressed in the permit application; (2) addressed in the permit application, but not adequate, not accurate, or contains other deficiencies; (3) not addressed in the permit application; or (4) omitted because the item is not applicable to the facility requesting a permit.

To assemble the checklist, the permit writer need only locate a regional office permitting computer loaded with the DTSC Information System. Using the computer mouse, click on the appropriate permit writer's application review checklist menu item. The computer will print out a formatted checklist that includes regulatory citations, the associated instruction to applicant statement, check-off boxes, and a space for the permit writer's comments.

[Note: If the Permit Module has not been installed or is not completely operational in the regional office, each permit senior has been provided an interim hard-copy version of the checklist, formatted similar to the way it would be printed by the Permit Module. The permit writer may use this interim version until the computer version is fully operational.]

Recommended Review Strategy

As was noted in Chapter 1.0, a "three pass" method is the recommended strategy for reviewing each of the various components or sections of the application. While the review can be conducted in any logical order, it is recommended that the review proceed in the same order as the Phase I Technical Review Chapters, starting with Chapter 9.1 and proceeding through 9.11.

Pass 1. Familiarization Review

OPAEA recommends that the initiation of the CEQA process begin after the draft RCRA Facility Assessment has been conducted in order to supply the permit writer with information and data needed to support the findings of the Initial Study.

After the checklist is printed, the permit writer should first assemble copies of all laws, regulations, and technical guidance listed in the associated Permit Writer Instructions chapter. The cited laws and regulations should be read and understood, before proceeding through the instructions to applicants printed with the checklist and technical guidance. Once the instructions to applicants and technical guidance is read and understood, the permit writer should locate and read the portions of the application that address the requirements of the chapter. During this familiarization review, if the permit writer can easily determine whether an item is either adequate, deficient, missing or not applicable, the appropriate checklist box can be is marked off. If this is not easily determined, the checklist box should be left blank. An in-depth review or analysis should not be performed at this time. During the familiarization review, the permit writer should identify any potential SWMUs to be included in the RFA.

During the familiarization review, the permit writer should also review the CEQA concerns of the application. If DTSC is the CEQA Lead Agency, the permit writer should complete all applicable portions of the DTSC CEQA Initial Study Checklist Form. If the DTSC is not the CEQA Lead Agency, the permit writer should still fill out the Initial Study Checklist Form to ensure that all CEQA requirements are being met. (See Chapter 8.0, CEQA.)

During the familiarization review, the permit writer should make a final determination of which sections of the application are to be forwarded to others for review. These application components should be sent off immediately. See the Coordination With Other Reviewers section of Chapter 4.0, Project Planning, for recommendations on submitting material for others to review.

During the familiarization review, the permit writer should note what supplemental information or

technical references may be needed (beyond what is listed in these instructions) to enable the permit writer to adequately review the technical information presented in the application. Necessity supplemental materials should be ordered immediately following the familiarization review. If not available from the DTSC headquarters Technical Reference Library (CALNET 454-5898).

During the familiarization review, the permit writer should note items that should be investigated during the next site visit. If a preapplication review site visit has not been conducted, the permit writer should visit the site before beginning the detailed technical review. It is important for the permit writer to visit the facility early in the application review process in order to identify potential problems, facility features, or technical topics that need special attention during the detailed technical review.

Following the Familiarization Review

Immediately following the familiarization review (and site visit if one was not done before beginning the familiarization review) the permit writer should either prepare a draft CEQA Initial Study (if the DTSC is the CEQA Lead Agency), or investigate and determine if a CEQA Initial Study has been completed by the CEQA Lead Agency. It is important that the permit writer know the findings of the draft CEQA Initial Study prior to completing the Phase I Technical Review, since the permit writer must determine whether required mitigation measures have been fully addressed in the application. If they have not been fully addressed in the application, the NOD must direct the applicant to address them in the next submittal. Failure to address them in the next submittal could be a cause for denial of the permit application.

Following the familiarization review and after a site visit, the permit writer should begin preparing the draft RCRA Facility Assessment (RFA) report, if one is required. (See Chapter 11.0, Corrective Action)

Pass 2. Detailed Review

At this point in the process, the permit writer has four distinct responsibilities:

(1)   determining whether the applicant facility will have a "significant impact" on the surrounding community or environment and, if so, determining what mitigation measures may be required,

(2)   determining whether there are releases or SWMUs needing attention in the NOD and permit conditions,

(3)   consulting with the Public Participation Supervisor to determine if the project may fall into a "high profile" category and require extensive PPS support, and

(4)   determining whether the facility meets all prerequisite requirements for a permit.

These four responsibilities must be carried-out concurrently, concluding with the completion of:

C   Initial Study,
C   Negative Declaration or Environmental Impact Report,
C   CEQA Notice of Determination,
C   development of permit conditions imposing CEQA mitigation measures (if appropriate),
C   a Final RFA report and permit conditions directing the facility to conduct an RFI, CMS, and CMI (if appropriate),
C   a final DTSC permit that conforms with all regulations and guidance and is technically sound, legally enforceable, and administratively complete, and
C   a fees and RCRIS database that is absolutely accurate in its description of the facility and facility operations.

After the permit writer has completed all of the above familiarization tasks, the permit writer should carefully re-review each portion of the application. The appropriate sections of the permit application review checklist should be compared with information presented by the applicant and information

collected during the site visit should be compared with listed statutory and regulatory requirements, the instructions to applicants, and technical guidance. Careful notes must be kept on how the application satisfies each requirement. Sections of the application that need an in-depth follow-up to examine specific details of the facility or facility operation should be flagged. Deficiencies noted during this detailed review serve as a basis for the NOD (Chapter 10.0) that is issued to the applicant following completion of all technical review steps.

Special attention must be given to all of the key questions listed in the technical review chapters. Key questions focus on technical requirements, facility operations, and special concerns that need in-depth review or more complex determination. Permit seniors are expected to personally go over each of the key questions with the permit writer to determine whether the permit writer or other reviewer has adequately investigated and answered each question posed. The pubic notice for the draft permit may not be issued until all applicable key questions are adequately investigated and answered.

Also during the detailed review period, the permit writer should routinely be contacting each of the additional reviewers to determine their progress and report any permit writer's findings relative to the material they are reviewing and any new material that should be included in their review report.

Pass 3. In-Depth Follow-Up Review

Finally, for each item flagged during the detailed review, the permit writer should conduct an in-depth follow-up review or investigation to determine whether questioned details of the facility or facility operation fulfill all requirements. Questions may be posed to the applicant in writing or by telephone, or the permit writer may need to re-inspect the details of the facility in question. Deficiencies found during this follow-up review would be included in the NOD. Other reviewers may need to visit the site too, to investigate questions they have. The permit writer is responsible for coordinating such site visits with other reviewers and the facility.

At the conclusion of the Phase I Technical Review for each unit at the facility, the permit writer should re-check the fees and RCRIS database information to ensure the data recorded is as complete and accurate as possible. The purpose of the database is to be able to describe the various regulatory aspects of the facility to anyone making an inquiry, including BOE for annual fee billings, U. S. EPA for annual grant performance evaluations, the Legislature for annual budget audits, etc. It is of paramount importance to the regional office that the database be as accurate and up-to-date as possible.

KEY QUESTIONS

Questions to be considered during the Phase I Technical Review are:

Each Phase I Technical Review chapter has its own set of key questions.

Has the Tanner Process been addressed?

Have the requirements of the Tanner Process been adequately performed?

Has the Facility Administration file been cleaned, updated, and properly prepared?

Has the project's mailing list been prepared?

Has a community assessment been conducted?

Has an information repository been established?

Is the mailing list up-to-date?

Who is the CEQA Lead Agency?

Has the CEQA Initial Study been completed?

Have the results of the CEQA Initial Study been adequately addressed in the permit application?

Have permit conditions imposing CEQA mitigation measures been developed and incorporated into the draft permit?

Has a site visit been conducted?

Does the permit application sufficiently represent actual site conditions?

Has all corrective action activity and reports been submitted?

Is the permit writer adequately familiar with the facility's overall business?

Is each hazardous waste management unit identified?

Has each hazardous waste management unit been addressed in the permit application?

Has every checklist item been analyzed?

Has the permit writer reviewed the checklists and comments submitted by additional reviewers?

Does the permit writer adequately understand and agree with the reviewer's findings and comments?

REQUIRED OUTPUTS

Expected outputs from this chapter are:

C   Completed checklist with notes. The checklist must contain enough information to allow the permit writer to properly assemble a Notice of Deficiency document.

C   Final CEQA Initial Study and draft Negative Declaration or Environmental Impact Report (as determined by the final Initial Study).

C   Completed RCRA Facility Assessment (RFA) and draft RFA report.

C   Corrective Action Interim Measures ordered.

C   Draft, complete and up-to-date mailing list. This mailing list will need to be modified whenever additional mailing information becomes available. At a minimum, the mailing list must have mailing information listed in Chapter 13.0, Draft Permit Decision, for use in distributing the Notice of Deficiency and CEQA information.

C   If a site visit was conducted, a completed site visit report consistent with the inspection report guidance given in Chapter 7.0, Preapplication Review Site Visit.

C   Copies of all above information properly filed in the DTSC administrative file for the facility.

C   If not completed in a previous chapter, appropriate fee information submitted to the fee coordinator for forwarding on to DTSC headquarters and BOE.

C   Fee and RCRIS databases updated and QA/QC'd for accuracy.

C   Community assessment if necessary.

C   Information repository, if directed by DTSC's Director.

APPLICABLE REGULATIONS AND STATUTES

State Laws and Regulations:

Various sections of the Cal. H&S Code and Cal. Code of Regs. Title 22, are listed in their appropriate sections of Phase I Technical Review chapters and are not repeated here.

Federal Laws and Regulations:

Other Laws and Regulations:

POLICIES

DTSC Policies:

EPA Policies:

Other Policies:

INSTRUCTIONS TO APPLICANTS

Handouts to be Given to Applicants:

Examples to be Given to Applicants:

CEQA & PUBLIC PARTICIPATION CONSIDERATIONS

LEGAL CONSIDERATIONS

INTERAGENCY AGREEMENTS & MOUs

COORDINATION WITH OTHERS

Other DTSC Units:

Environmental/Legislative/Industry Groups:

Other Agencies:

Special Requests:

STEP-BY-STEP PROCEDURES

Flow Charts:

Checklists:

TECHNICAL REFERENCES

EXAMPLES OF COMPLETED WORK PRODUCTS

TIMELINE AND PLANNING

Permit Processing Chart:

Workload Standards:

Statutory & Other Deadlines:

WP File Name: 2/CH0900_P.MAN

List of Examples:

List of Appendices:

9.0-1   Memorandum of Agreement Between DTSC and USEPA, September 22, 1997

List of References: